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April 9, 2001

**VIA HAND DELIVERY**

Mr. K. David Waddell  
Executive Secretary  
Tennessee Regulatory Authority  
460 James Robertson Parkway  
Nashville, Tennessee 37243-0505

REC'D TN  
REGULATORY AUTH.  
01 APR 9 PM 3 38  
OFFICE OF THE  
EXECUTIVE SECRETARY

**Re: Tennessee Telecommunications Association Petition for  
Exemption of Voice Messaging Service from Regulation,  
Docket No. 00-00823**

Dear Mr. Waddell:

On September 21, 2000, the Tennessee Telecommunications Association filed the above-referenced Petition with the TRA. Subsequently, on January 18, 2001, the TRA propounded a data request to the membership of the Association and requested a response by February 2, 2001. Pursuant to requests by counsel on behalf of the Association, however, the deadline for providing the requested information was extended to April 9, 2001. You will find enclosed an original and 13 copies of the Association's response.

Please note that the attached Exhibits contain confidential and proprietary material and are submitted under seal pursuant to Rule 1220-1-1-.03(8).

We appreciate the current action on the Association's petition and look forward to the Authority's further consideration of this matter.

Best regards.

Very truly yours,



R. Dale Grimes

CLM:RDG/gci  
cc: Mr. Richard R. Blair  
Enclosure

#2187799.2

**Tennessee Telecommunications Association  
Tennessee Regulatory Authority  
Docket No. 00-00823  
January 18, 2001  
Request 1**

**Request 1:** Describe in detail the relief sought by the TTA.

**Response 1:** As set forth in its Petition for Exemption of Voice Messaging Service from Regulation, filed September 21, 2000, the TTA requests that voice messaging service be exempted from regulation pursuant to Tenn. Code Ann. § 65-5-208(b). Section 208(b) provides in relevant part that “[t]he authority shall in any event exempt a telecommunications service for which existing and potential competition is an effective regulator of the price of those services.”

The TTA respectfully submits that the exemption requested in its Petition is appropriate under the clear language of the statute because there is existing and potential competition that is an effective regulator of price, as demonstrated in the responses of the TTA’s members, the Petition, and as further described below in the TTA’s generic response to Request No. 9. Therefore, pursuant to the terms of Tenn. Code Ann. § 65-5-208(b), the Association requests that the TRA exempt voice messaging service from regulation.

**Tennessee Telecommunications Association  
Tennessee Regulatory Authority  
Docket No. 00-00823  
January 18, 2001  
Request 2**

**Request 2:** Provide the following information for the service area of each TTA member company:

- a. A list of those companies who supply voice messaging services that compete with the voice messaging services that TTA member companies supply to their customers;
- b. The competitive voice messaging services that each competitor provides;
- c. The rates charged by each competitor for each service.

**Response 2a:**

As stated in the TTA's Petition, TTA member companies face vigorous competition in the voice messaging service market segment from a host of unregulated competitors including terminal equipment vendors, answering machine retailers, voice mail service providers, wireless carriers, internet service providers, and computer hardware and software manufacturers. Moreover, TTA members compete with each other for the provision of voice messaging services. For example, BellSouth offers voice messaging service without requiring a consumer to have an associated physical access line.

A large number of companies generally compete across Tennessee with the TTA's members in the voice messaging market segment. Examples of those competitors follow:

*Standard Answering Machines.* Answering machines are widely available and can be purchased through a variety of retail outlets, such as discount stores, electronic stores, and over the Internet for as little as \$20.00. These retailers include without limitation Wal-Mart, K-Mart, Sears, Circuit City, Best Buy, etc. In addition, businesses can purchase their own voice messaging systems that provide multiple voice mailbox functionality, as well as features that are equivalent to those offered by TTA's member companies.

*National Voice Messaging Service Providers.* Several nation-wide companies provide voice messaging services, including: (i) AT&T; (ii) MCI WorldCom; (iii) GTE; (iv) PageNet; (v) Satelink Com; and (vi) Amway.

*Computer Manufacturers.* Every computer manufacturer from Dell to IBM has a PC model on the market that includes built-in voice “mailboxes.” Many personal computers offer three or four mailboxes so each member of the family or small business can access their own messages.

*Wireless Carriers:* Wireless carriers, generally available across Tennessee, provide voice messaging services, including: (i) Cingular; (ii) Sprint PCS; (iii) Alltel; (iv) Verizon Wireless; (v) US Cellular; (vi) Cellular Express; (vii) Cellular Sales; (viii) All Page; (ix) SunCom; and (x) Wireless Direct.

*Internet Service Providers:* The major national and regional ISP providers (AOL, MSN, EarthLink, DSL Connect, Nortel) have run promotions offering free voice mail with new subscriptions. The customer subscribes to call forward busy from the local exchange provider, and the call forward busy targets the customer’s number to a free voice mail account when the customer is on the Internet.

*Internet-Based Competitors:* Internet-based companies, such as Call Wave, Evoice.com and Net2phone, offer voice messaging services.

*Terminal Equipment Vendors:* Terminal equipment vendors offer a wide array of equipment allowing business to provide voice messaging solutions, including such companies as: (i) Smiles Communication System, Inc.; (ii) USA Communications and Advanced Communications; (iii) Concepts in Communications; and (iv) and Livewire Communications Co.

*CLECs:* A number of competitive local exchange carriers provide or potentially provide voice messaging services, including: (i) Knology; (ii) MCI WorldCom; (iii) Talk.com; (iv) Time Warner; (v) US LEC; (vi) Adelphia Business Solutions; and (vi) XO Communications.

*Competing LECs:* BellSouth offers non-exchange voice messaging service.

*Competitive Local Voice Mail Providers:* (i) Golden Voice; (ii) American Voice Mail Inc.; (iii) Smiles Communication System, Inc.; (iv) USA Communications; (v) Advanced Communications; (vi) Concepts in Communications; and (vii) Livewire Communications Co.

*Traditional Answering Services:* Telephone directories are replete with advertisements for traditional answering services. Representative examples include: (i) Kingsport Answering Service; (ii) Professional Communications; (iii) Priority One Answering Service; (iv) AAA Answering Service; (v) Teleconnect; (vi) Answering Advantage; (vii) Answerfone by Graves; (viii) Answer The Call; (ix) Answering Memphis; (x) Executive Business Center; (xi) First Choice Exchange;

(xii) Personal Touch Answering Service; (xiii) Voice One Message Service; (xiv) Telcom Messaging Service; (xv) The Message Center; and (xvi) Answer Quick

**Response 2b:** The TTA's member companies do not have a comprehensive list of features offered by their many competitors. However, competitors generally provide voice mail messaging services such as: (i) call forward/no answer; (ii) call forward/busy; (iii) direct and remote message retrieval; and (iv) retention of messages via voice platform. Answering services also offer a live operator interface.

**Response 2c:** The TTA's member companies do not have a comprehensive list of pricing information for all competitors across Tennessee. However, the TTA provides the following examples:

<u>Company:</u>	<u>Example of Monthly Rate:</u>
Ameri-Tel	12.95
Answer Quick	15.00
BellSouth (non-exchange/non-access line service)	12.95
Business Link	3.00-3.95
Call Wave	<i>FREE<sup>1</sup> (no charge)</i>
Cingular	3.95
Horizon Communications	3.95 (basic) 6.95 (enhanced)
MCI Worldcom	3.95
NationLink	3.00-3.95
Nextel	3.00
Nortel	<i>FREE<sup>2</sup> (no charge)</i>
Sattellink Com	10.95
US Cellular	4.95 (analog)
Verizon Wireless	3.95 (basic) 6.95 (enhanced)
Voicecom	9.95
Wireless Direct	3.00
Wireless Solutions	3.00

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<sup>1</sup> Internet-based.

<sup>2</sup> Nortel offers voice messaging service without charge for six months. After six months, Nortel charges \$4.95 per month.

A number of voice messaging service providers, such as Sprint PCS, Cellular Express, AllPage, Talk.com, Knology, US Celular (digital), and Sun Com, provide the service only as part of a package of telecommunications services. Therefore, these competitors' pricing cannot be clearly delineated. By way of example, however, Talk.com charges a monthly rate of \$49.95, which includes local service access, and 200 minutes of long distance, in addition to voice mail, and Knology charges a monthly rate of \$32.50, which includes local service access, flat rate long distance, and voice mail.

**Tennessee Telecommunications Association  
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Request 3**

**Request 3:** Have TTA members reduced prices for voice messaging services in response to competing offers for such services? Provide summaries of all such rate reductions and the competitive offerings that prompted them.

**Response 3:** No. However, while no price reduction as such has occurred, BellSouth recently introduced a new voice messaging service called BellSouth® Voice Mail, which is available at \$2.95 per month (BellSouth's previously existing Memory Call® voice messaging service remains available at \$4.95 per month). BellSouth® Voice Mail was introduced at that price point primarily to increase the number of potential customers for voice messaging service. In addition, BellSouth® Voice Mail offers a menu of optional associated services, allowing customers to select only those features that best suit their needs (please also see BellSouth's response to Request 8).

In addition, UTSE has enhanced its MessageLine<sup>SM</sup> service in response to competition by increasing message capacity from 15 to 30 messages for certain MessageLine<sup>SM</sup> options and making available additional features such as paging notification and Sprint's Personal Messenger<sup>SM</sup>. UTSE also has launched MessageLine<sup>SM</sup> promotions across its local exchange areas in Tennessee. In the year 2000, UTSE ran three six-week promotions offering the first month free.

**Tennessee Telecommunications Association  
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Request 4**

**Request 4:** Provide a listing of tarified services by company that are included in the TTA's Petition.

**Response 4:** The TTA's member companies seek deregulation of voice messaging services regulated by the TRA. By way of example, the following responses are provided:

*BellSouth:*

The tarified services provided by BellSouth in Tennessee and are included in the TTA's Petition are: (i) Memory Call® Service; and (ii) BellSouth® Voice Mail Service.

*TDS:*

The tarified services provided by TDS in Tennessee and included in the TTA's Petition are: (i) Basic Mailbox; (ii) Standard Mailbox; (iii) Standard Plus Mailbox; (iv) Premium Mailbox; (v) Announcement Only; (vi) Rotational Announcements Service; (vii) Basic Mailbox - Non Exchange; (viii) Standard Mailbox - Non Exchange; (ix) Standard Plus Mailbox - Non Exchange; (x) Premium Mailbox - Non Exchange; (xi) Voice Mail Package (includes call forwarding, stutter dial tone and message indicator); and (xii) Group Messaging.

*UTSE:*

UTSE provides a voice messaging service marketed as MessageLine<sup>SM</sup>. MessageLine<sup>SM</sup> is contained in UTSE's General Subscriber Services Tariff.



**Tennessee Telecommunications Association  
Tennessee Regulatory Authority  
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Request 5**

**Request 5:** Specify how the remedy proposed in the above-captioned Petition would affect accounting procedures of telecommunications service providers:

- a. To which accounts are the revenue and associated costs booked today? (Separate by regulated and non-regulated accounts).
- b. To which accounts does the TTA propose to book revenues and associated costs? (Separate by regulated and non-regulated accounts).

**Response 5a:**

*BellSouth:*

In accordance with Federal Communications Commission ("FCC") Regulations, the furnishing of enhanced services, such as voice messaging, is accounted for as a non-regulated activity. BellSouth records revenue for messaging in the non-regulated revenue account 5280.1700. Expenses associated with provision of voice messaging services are recorded in various expense accounts (6XXX) and are assigned and allocated to non-regulated accounts in accordance with Part 64 of the FCC cost allocation rules.

Under rate-of-return based regulation, for purposes of computing state-regulated earnings, an adjustment formerly was made to include voice messaging services in regulated results. Under price regulation, however, this sort of adjustment is unnecessary and therefore is no longer performed.

*TDS:*

As a rate-of-return company, TDS tracks revenues in regulated account 5060, Other Local Exchange Revenues. TDS' financial system, however, does not track expenses by tariffed product line.

*UTSE:*

UTSE currently records the MessageLine<sup>SM</sup> revenue and associated cost as a non-regulated service. This accounting treatment is consistent with the FCC rules and the

rules for every other state in which Sprint operates. For the monthly Tennessee 3.01 report, the MessageLine<sup>SM</sup> net investment and net operating income are reclassified to regulated operations.

MessageLine<sup>SM</sup> revenue is recorded in non-regulated Lease Revenue, account 9539. Expenses are recorded in non-regulated Cost of Goods Sold and Depreciation, account 9639. The investment is recorded in non-regulated Other Terminal Equipment, account 2362, with the depreciation reserve recorded in non-regulated Accumulated Depreciation, account 3100.

**Response 5b:**

*BellSouth:*

Under the TTA proposal, no change in the manner of accounting for revenues and expenses would be necessary for BellSouth. The revenues and demand for BellSouth's voice messaging service would be removed from the Tennessee Price Regulation Calculations. In addition, please see BellSouth's response to Request 6.

*TDS:*

TDS would record revenues in account 5280, Non Regulated Operating Income. Associated expenses would be recorded in account 7990, Non Regulated Operating Expense.

*UTSE:*

UTSE proposes that it continues its current accounting treatment of voice messaging service as a non-regulated service.

**Tennessee Telecommunications Association  
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Request 6**

**Request 6:** Specify the cost and revenue impact of the proposed changes:

- a. For price-regulated companies, specify the proposed changes to the price cap calculation if this Petition is approved.
- b. For rate-of-return regulated companies, specify proposed changes to:
  - 1) Revenues
  - 2) Costs
  - 3) Rate base

**Response 6:** For price-regulated companies, the TTA proposes to completely remove voice messaging services rate elements from price regulation index calculations. For rate-of-return companies, the TTA proposes to move the revenues, expenses and rate-based items from regulated accounts to be subject to the accounting treatment specified above in Response 5b.

**Tennessee Telecommunications Association  
Tennessee Regulatory Authority  
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Request 7**

**Request 7: Supply the following data for the territory serviced by TTA's member companies:**

- a. The number of lines equipped with voice mail by month over the past three years (1998 - 2000). Separate this data by residence and business.
- b. List the number of total access lines by month over the past three years (1998 - 2000). Separate this data by residence and business.

**Response 7a:**

BellSouth:

The spreadsheet marked as Exhibit A sets forth the total number of voice mailboxes for BellSouth for the months of December 1998 through December 2000, separated by residence and business. Information prior to December 1998 is unavailable. Because the information provided in the spreadsheet is confidential proprietary information, it is submitted under seal.

TDS:

The spreadsheet marked as Exhibit B sets forth TDS's response to Request 7a. Because the information provided in the spreadsheet is confidential proprietary information, it is submitted under seal.

UTSE:

The spreadsheet marked as Exhibit C sets forth UTSE's response to Request 7a. Because the information provided in the spreadsheet is confidential proprietary information, it is submitted under seal.

**Response 7b:**

BellSouth:

The spreadsheet marked as Exhibit D sets forth the total number of access lines for BellSouth for the months of January 1998 through December 2000, separated by residence and business.

TDS:

The spreadsheet marked as Exhibit E sets forth TDS's response to Request 7b. Because the information provided in the spreadsheet is confidential proprietary information, it is submitted under seal.

UTSE:

The spreadsheet marked as Exhibit C<sup>3</sup> sets forth UTSE's response to Request 7b. Because the information provided in the spreadsheet is confidential proprietary information, it is submitted under seal.

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<sup>3</sup> Exhibit C contains the response of UTSE for both Request 7a and Request 7b.

**Tennessee Telecommunications Association  
Tennessee Regulatory Authority  
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Request 8**

**Request 8:** If this Petition is approved, do the TTA member companies anticipate increasing voice mail rates?

**Response 8:**

*BellSouth:*

The approval of the Petition filed by the TTA will not influence BellSouth's pricing decisions for voice mail rates. As is currently the case, BellSouth would continue to consider the competitive marketplace for voice messaging service to appropriately price its offerings.

*TDS:*

TDS does not plan to increase voice messaging rates. Future rate changes, if any, would be based upon market conditions.

*UTSE:*

UTSE anticipates adjusting services and rates as needed based on current and future market conditions; however, UTSE currently does not anticipate making any changes in MessageLine<sup>SM</sup> rates for the next six months.

**Tennessee Telecommunications Association  
Tennessee Regulatory Authority  
Docket No. 00-00823  
January 18, 2001  
Request 9**

**Request 9:** Supply all other justification to support the TTA's Petition to exempt the services under this statute.

**Response 9:** As described above in response to Request No. 1, Tenn. Code Ann. § 208(b) provides in relevant part that "[t]he authority shall in any event exempt a telecommunications service for which existing and potential competition is an effective regulator of the price of those services." Residential and business customers who seek voice messaging service have a number of competing providers from which to choose. Each of the many alternatives provide different service levels, but at generally low expense. In short, there is vigorous competition in the voice messaging service market segment.

Specifically, in the market for voice messaging services, the members of the TTA directly compete against terminal equipment vendors, retailers of increasingly sophisticated, but inexpensive answering machines, computer software and hardware manufacturers, wireless carriers, including wireless telephony and pager companies, and answering services, as well as a fairly new breed of local, national, and Internet-based voice messaging service providers, some of which provide the services at no cost to consumers. None of the foregoing competing services and products are regulated by the TRA. Moreover, developments in technology and the Internet can be expected to continue to provide new, innovative, and low cost alternatives to traditional voice messaging services offered by regulated carriers. Thus, members of the TTA face vigorous competition from a diverse and aggressive variety of other voice messaging service providers that exist today and they can expect additional competitors from other potential providers in the future.

In addition, the framework of federal regulation recognizes that voice messaging is a type of service that should be non-regulated. Section 64.702(a) of the FCC Regulations provides in relevant part that:

"the term enhanced service shall refer to services, offered over common carrier transmission facilities used in interstate communications, which employ computer processing applications that act on the format, content, code, protocol or similar aspects of the subscribers transmitted information; provide the subscriber additional, different, or restructured

information; or involve subscriber interaction with stored information. Enhanced services are not regulated under title II of the Act."

Voice messaging services generally permit subscriber interaction with stored data. Most voice messaging platforms include functionality permitting subscribers to send, receive, retrieve, modify, and delete messages. Therefore, voice messaging service is an enhanced service, not a basic transmission service. Indeed, the FCC has long recognized that such services are enhanced services.

Specifically, in its Computer III Order, the FCC stated "[voice messaging] services involve storage of telephone messages in the network for subsequent sending or retrieval." In decisions regarding AT&T's "Custom Calling II" voice messaging service, the FCC concluded that services such as Custom Calling II are enhanced services because of their information retrieval functions.

Existing and potential competition is an effective regulator of the price of voice messaging services, as recognized by federal regulations. Additionally, the level of competition in the voice messaging market segment can be expected to increase with continuing deregulation of telecommunications services and growth of new alternatives to traditional voice messaging offered by the Association's regulated members. Therefore, the Association respectfully submits that deregulation of voice messaging services is appropriate under Tenn. Code Ann. § 208(b).